

WADE ROBERTSON,  
P.O. Box 20185  
Stanford, CA. 94309  
Telephone: (866)-845-6003  
Facsimile: (888)-364-3330

**Pro-Se Plaintiff**

**FILED**

2008 APR 28 P 1:29

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF C.A. S.J.

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

WADE ROBERTSON,

Plaintiff,

V.

## DANIEL FRANCIS RYAN,

**Defendant.**

C08 02175 RS  
CASE NO.

**COMPLAINT FOR VIOLATION  
OF CIVIL RIGHTS UNDER THE  
FEDERAL CONSTITUTION.**

**DEMAND FOR JURY TRIAL**

Plaintiff Wade Robertson hereby alleges for his Complaint against Defendant Daniel Francis Ryan on personal knowledge as to his own actions and on information and belief as to others, as follows:

## **JURISDICTION AND VENUE**

**JURISDICTION EXISTS BY WAY OF THE FEDERAL CLAIMS**

25 JURISDICTION  
26 1. This action arises under the Constitution of the United States, particularly the Fourth  
27 and Fourteenth Amendments to the Constitution of the United States, and under the laws of the  
28 United States, particularly the Civil Rights Act, 42 U.S.C. §§ 1983 and 1988.

1           2. The jurisdiction of this court is invoked under the provisions of 28 U.S.C. §§ 1331 and  
2           1343.

3           3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because it is where the  
4 events complained of occurred.

5           4. Personal jurisdiction over the Defendant is proper because he is subject to the general  
6 jurisdiction of the courts in this state of California---

7                 (a) the Defendant is a resident of the state of California, and in addition

8                 (b) the Defendant is actively employed in Palo Alto, California where a substantial  
9 part of the events that give rise to the claims occurred.

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#### **INTRADISTRICT ASSIGNMENT**

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5. Pursuant to Civil L.R. 3-2, assignment of this action to the San Jose Division of this  
Court is proper since a substantial part of the events that give rise to the claims occurred in Santa  
Clara County.

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#### **THE PARTIES**

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6. Plaintiff Wade Robertson (hereafter "Robertson") is a citizen of the state of  
Tennessee, in the United States of America, where he maintains his permanent residence.

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7. Defendant Daniel Francis Ryan is a citizen of the state of California. In addition,  
Defendant Daniel Francis Ryan is now, and at all times mentioned was a duly appointed,  
employed and acting police officer of the City of Palo Alto, Santa Clara County, California.

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#### **FIRST CLAIM FOR RELIEF**

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(For Defendants' Violation of Plaintiff's Civil Rights Under the Federal Constitution)

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8. On Friday April 28, 2006, Defendant Daniel Francis Ryan ("Ryan") of the Palo Alto  
Police Department (Santa Clara County, California), unlawfully detained Plaintiff Wade  
Robertson ("Robertson"). In doing so, Ryan acted under pretense and color of law and his

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1 official capacity, but such acts were beyond the scope of his jurisdiction and without  
2 authorization of law.

3        9. Thereafter, and also on Friday April 28, 2006, Ryan unlawfully seized Robertson  
4 without a warrant and took him into police custody where Robertson was detained against his  
5 will in a local police facility and also a county jail for a total detention time in excess of 12  
6 hours. In doing so, Ryan acted under pretense and color of law and his official capacity, but  
7 such acts were beyond the scope of his jurisdiction and without authorization of law.

8        10. The wrongful conduct of Defendant Ryan as alleged above was done unlawfully, and  
9 with the specific intent to deprive Plaintiff Robertson of his rights to freedom from illegal  
10 searches and seizure of his person, papers, and effects, and of his right to freedom from unlawful  
11 arrest, detention, and imprisonment, all of which rights are secured to Plaintiff Robertson by the  
12 Fourth, Fifth, and Fourteenth Amendment to the Constitution of the United States, and by 42  
13 U.S.C.A. §§ 1983 and 1988.

14        11. As a direct and proximate result of the wrongful conduct of Defendant Ryan as  
15      alleged above, Plaintiff Robertson was deprived of his freedom, suffered loss of employment,  
16      and incurred legal expenses, all to his detriment in an amount to be determined at trial.

17       12. The wrongful conduct of Defendant Ryan as alleged above was done knowingly,  
18 willfully, and with malicious intent, and Plaintiff Robertson is entitled to punitive damages in an  
19 amount to be determined by proof at trial.

20        13. Pursuant to 42 U.S.C.A. § 1988, Plaintiff is entitled to a reasonable allowance for  
21 attorney fees as a part of his costs.

## **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff Robertson re-alleges all paragraphs above and respectfully requests that  
25 this Honorable Court grant an award of damages as determined by a jury from Defendant Daniel  
26 Francis Ryan for:

27 (1) general damages according to proof at trial;  
28 (2) special damages according to proof at trial;

**DEMAND FOR JURY TRIAL**

7 Plaintiff hereby demands trial by jury for all causes of action, claims or issues in this action  
8 which are properly triable as a matter of right to a jury.

Respectfully submitted,

11 Dated: April 28, 2008

WADE ROBERTSON

1                   **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

2 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named  
3 parties, there is no such interest to report.

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5 Dated: April 28, 2008



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7 WADE ROBERTSON  
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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

**I. (a) PLAINTIFFS**

Wade Robertson

**DEFENDANTS**

Daniel Francis Ryan

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

PRO-SE

C08 02175

RS

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 440 R.R. & Truck	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 450 Airline Regs.	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 460 Occupational Safety/Health	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 480 Cable/Sat TV
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 490 Selective Service	<input type="checkbox"/> 490 Agricultural Acts
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 500 Securities/Commodities/Exchange	<input type="checkbox"/> 500 Economic Stabilization Act
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 815 Customer Challenge 12 USC 3410	<input type="checkbox"/> 815 Environmental Matters
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 820 Energy Allocation Act
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 830 Freedom of Information Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 515 Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 893 Environmental Matters
	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 894 Energy Allocation Act
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

- |   |   |  |   |                  |
|---|---|--|---|------------------|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | Transferred from |
|---|---|--|---|------------------|

Transferred from

- |   |           |
|---|-----------|
| <input type="checkbox"/> 5 another district | (specify) |
|---|-----------|

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| <input type="checkbox"/> 6 Multidistrict Litigation |
|---|

Appeal to District

- |   |
|---|
| <input type="checkbox"/> 7 Judge from Magistrate Judgment |
|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

CIVIL RIGHTS ACT, 42 U.S.C. s1983 &amp; s1988; UNITED STATES CONSTITUTION

Brief description of cause:

VIOLATION OF CIVIL RIGHTS UNDER U.S. CONSTITUTION &amp; CIVIL RIGHTS ACT, 42 U.S.C. s1983 &amp; s1988

VII. REQUESTED IN COMPLAINT:  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE". C-06-04624 (JF)

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)  
(PLACE AND "X" IN ONE BOX ONLY)**

DATE

4/28/2008

 SAN FRANCISCO/OAKLAND SAN JOSE

SIGNATURE OF ATTORNEY OF RECORD

*Wade Robertson*

(PLAINTIFF PRO-SE)